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An unending variety of topics

Saturday, August 19, 2006

Smart contracts, tying, and product liability

Ed Felten redubs smart contracts, at least for the purposes of tying, "PRM" (Property Rights Management). A traditional example of tying is the razors-and-blades strategy: a company sells you a razor at a loss and recoups the profit on the blades. This marketing strategy is also popular with printers and cartridges. To prevent consumers from buying off-brand cartridges and thereby foiling the marketing strategy, some printer manufacturers have embedded a cryptographic protocol whereby the printer authenticates the cartridge as containing the private key of the manufacturer. Extrapolating from this example, Felton complains about looming restrictions on our use of everyday items if "PRM" becomes a reality. Tyler Cowen rebuts Felten's complaints with respect to tying on economic grounds, pointing out that where manufacturers have an incentive to tie, it generally increases the welfare of consumers as a whole as well as manufacturers.

While I am a proponent of most kinds of smart contracts, I'm also quite sympathetic to the freedom-to-tinker movement. I generally oppose legislation like DMCA that artificially protects insecure smart contracts. And consumers should be empowered to choose their smart contracts wisely. I support open source protocols so that somebody neutral has read the smart fine print. Smart contract protocols, like legal contracts, should be in the public domain.

As a commentor to Felten's post pointed out, manufacturers usually don't have contractual privity with consumers, unless you order direct. Through smart contracts, manufacturers may gain some digital privity with the end user.

At least in the context of the United States legal system, it's fair for manufacturers to restrict how consumers can use their products, since, breaching privity, U.S. courts at least have already decided that manufacturers are strictly liable for unsafe products, often even when the consumers misuse them. Thus manufacturers go to great lengths to make products "idiot proof" and also, alas, "tinker proof." Since Felton wants the freedom to tinker, he should oppose strict product liability. At least, people who tinker and get hurt should not be able to sue the manufactuer.

Posted by Nick Szabo at 7:24 PM

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Nick Szabo

"A premier thinker about history, law and economics, and the lessons they have for security." -- Adam Shostack, Emergent Chaos

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1 comment:

Anonymous said...

America has really lost it sense of law.
The many many couirt ruling show this to be true.
Today our court room have become full of Judges who think they have the legal right to
make law.What we have today is judges full of pride and quest for power,they think their words are mightier then the pen of our founding fathers.
lawsuits

7:47 PM

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